



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,604	01/25/2001	Stephen M. Howard	EMC-002PUS	4397

22494 7590 05/25/2005

DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON, MA 02021-2714

EXAMINER

OSMAN, RAMY M

ART UNIT PAPER NUMBER

2157

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,604

Applicant(s)

HOWARD ET AL.

Examiner

Ramy M. Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to amendments filed on 3/31/2005, where applicant amended claims 1 and 12 and cancelled claim 16. Claims 1-20 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims rejected under 35 U.S.C. 103(a) as being unpatentable by Hanes et al (US Patent No 6,466,952) in view of Rodriguez et al (US Patent No 6,427,149).**

4. In reference to claim 1, Hanes teaches a method of restoring backed up data, comprising:
retrieving, by a data backup and storage system, a list of objects that are restorable by a client (column 4 lines 64-67 and column 6 lines 15-25);
displaying the list of restorable objects for browsing by a user (column 4 lines 64-67);
generating a list of restorable objects marked for restoration by the user, wherein each of the restorable objects is associated with a particular library (column 6 lines 8-25 & 49-67);
submitting the list of marked restorable objects for restoration by the client (column 2 lines 37-50 and column 5 lines 10-30);

executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that multiple restore submissions can be made prior to restore execution (column 2 lines 37-50 and column 6 lines 5-20).

Hanes fails to explicitly teach the limitation of via a remote procedure call. However, Rodriguez teaches remote procedure calls wherein a client retrieves a list of archive objects from a server for multiple restore submissions of archive files (Abstract, column 3 lines 18-25, column 4 lines 24-40 & 55-65 and column 5 lines 10-31).

It would have been obvious for one of ordinary skill in the art to modify Hanes by executing a restoration of the submitted list of marked restorable objects via a remote procedure call as per the teachings of Rodriguez so as to allow remote access of archived or backup data so they can be retrieved or restored in order to remotely restore data over a network connection.

5. In reference to claim 2, Hanes teaches the method according to claim 1, further including executing multiple restore submissions concurrently (column 5 lines 1-15 and column 6 lines 20-35).

6. In reference to claim 3, Hanes teaches the method according to claim 1, further including initiating a restore session for the client. (column 8 lines 20-33).

7. In reference to claim 4, Hanes teaches the method according to claim 3, further including creating a restore engine process for the retrieving, browsing, submitting and executing of restore objects (column 4 line 60 – column 5 line 30).

8. In reference to claim 5, Hanes in view of Rodriguez teaches the method according to claim 4, wherein the client communicates with the restore engine process via remote procedure calls (column 4 lines 23-40 & 55-65, Rodriguez teaches remote restoration over a network).

9. In reference to claim 6, Hanes in view of Rodriguez teaches the method according to claim 4, wherein the restore engine process is created by a dispatch daemon on a backup storage system server. (column 4 lines 23-41 and column 5 lines 10-30, Rodriguez teaches a restore process on an archive server).

10. In reference to claim 7, Hanes teaches the method according to claim 4, wherein the restore engine process is terminated upon completion of the restore execution (column 2 line 37 – column 3 line 20, it is a well known feature in the art to terminate a process after its completion).

11. In reference to claim 8, Hanes in view of Rodriguez teaches the method according to claim 4, further comprising creating a restore process for data to be restored over a network to a client (Hanes; column 19 lines 5-30, column 20 lines 50-67 and column 24 lines 45-67).

Hanes fails to explicitly teach wherein the restore engine process runs on a backup data storage server and further including creating a work item restore process on the backup data server, a server restore process for generating a stream of data to be restored, and a client restore process for receiving the data stream . However, Rodriguez teaches a restore process on an archive server, a data stream over a network for data retrieval and a client process for receiving the data (Abstract, column 4 lines 23-41 and column 5 lines 10-30).

It would have been obvious for one of ordinary skill in the art to modify Hanes by making the restore engine process runs on a backup data storage server and further including creating a work item restore process on the backup data server, a server restore process for generating a stream of data to be restored, and a client restore process for receiving the data

stream as per the teachings of Rodriguez so that the restoration can occur remotely over a network.

12. In reference to claim 9, Hanes teaches the method according to claim 4, further including detecting and identifying libraries that support associated catalogs of backed up data for processing of backed up data by the restore engine process. (column 6 lines 8-25 & 49-67)

13. In reference to claim 10, Hanes teaches the method according to claim 9, further including adding a new library supporting new methods of backing up data (column 6 lines 8-25 & 49-67 and column 7 lines 50-67).

14. In reference to claim 11, Hanes teaches the method according to claim 9, further including determining object types for backed up data supported by the libraries (column 6 lines 8-25 & 49-67 and column 7 lines 5-25).

15. In reference to claims 12,13 and 15, Hanes teaches a method of restoring backed up data and a corresponding system, comprising:

initiating a restore session for a first client through a graphical user interface associated with the client (column 4 lines 64-67 and column 8 lines 14-40);

establishing a connection between the graphical user interface and the restore engine process (column 4 lines 64-67 and column 8 lines 14-40);

displaying a list of restorable objects for browsing by a user associated with the client via the graphical user interface under the control of the restore engine process (column 4 line 64 – column 5 line 15);

identifying restorable objects marked for restoration by the user under control of the restore engine process (column 2 lines 37-50 and column 5 lines 10-30);

Art Unit: 2157

storing a list of marked restorable objects submitted by the client to the restore engine process (column 2 lines 37-50 and column 5 lines 10-30); and

executing the restoration of the marked objects under control of the restore engine process independently of the browsing, marking and submitting of the restorable object such that multiple restore submissions can be made prior to restore execution (column 2 lines 37-50 and column 6 lines 5-20).

Hanes fails to explicitly teach the limitation of via a remote procedure call. However, Rodriguez teaches remote procedure calls wherein a client retrieves a list of archive objects from a server for multiple restore submissions of archive files (Abstract, column 3 lines 18-25, column 4 lines 24-40 & 55-65 and column 5 lines 10-31).

It would have been obvious for one of ordinary skill in the art to modify Hanes by executing a restoration of the submitted list of marked restorable objects via a remote procedure call as per the teachings of Rodriguez so as to allow remote access of archived or backup data so they can be retrieved or restored in order to remotely restore data over a network connection.

16. In reference to claim 14, Hanes teaches the method according to claim 12, further including supporting a new backup data method by adding a library corresponding to the new backup data method. (column 6 lines 8-25 & 49-67 and column 7 lines 50-67)

17. In reference to claims 17, Hanes teaches the system according to claim 15, wherein the restore engine process processes library's upon restore initialization such that libraries can be added to the system for supporting new backup methods. (column 6 lines 8-25 & 49-67 and column 7 lines 50-67)

Art Unit: 2157

18. In reference to claims 18, Hanes teaches the system according to claim 17, further including a dispatch daemon for initiating the restore session (column 4 lines 23-41 and column 5 lines 10-30, Rodriguez teaches a restore process on an archive server).

19. In reference to claims 19, Hanes teaches the system according to claim 15, further including further restore engine processes corresponding to further restore sessions initiated by additional clients (Rodriguez inherently teaches multiple clients restoring archive data, column 4 lines 25-55).

20. In reference to claims 20, Hanes teaches the system according to claim 19, further including additional restore triangles for executing multiple work item restores concurrently (Summary and column 5 lines 10-40).

Response to Arguments

21. Examiner withdraws the 112 first and second paragraph rejections.

22. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent No. US005907672A, Matze et al. teaches selectively restoring backed up files.

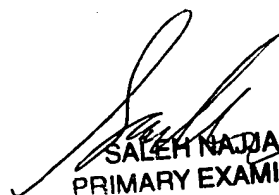
Patent No. US005485606A, Midgdey et al teaches storing and retrieving files for archival purposes where a user selectively restores backup data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO
May 22, 2005


SALEH NAJJAR
PRIMARY EXAMINER